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No. 95-

IN THE
Supreme Court of the United States
OCTOBER TERM, 1995

GREATER MINISTRIES INTERNATIONAL, INC.,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

On Petition for a Writ of Certiorari to the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County Florida

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Free Exercise and the Establishment Clauses of the First Amendment and the associational rights guaranteed by the First Amendment protect a church from judicial enforcement of a subpoena duces tecum issued by the State Attorney to investigate a church fundraising and faith program, participation in which is restricted to individuals who make a continuing religious commitment to Jesus Christ and who understand that the program's success depends upon their continuing prayers and faith, where the program is a major source of contributions to the church, and where the court order enforcing the subpoena duces tecum requires extensive disclosure of the church's financial records, including information identifying participants in the program and the church's investments and expenditures.

2. Whether the Religious Freedom Restoration Act of 1993 (42 U.S.C. § 2000bb) is violated by a court order enforcing a subpoena duces tecum issued by the State Attorney to investigate a church fundraising and faith program, participation in which is restricted to individuals who make a continuing religious commitment to Jesus Christ and who understand that the program's success depends upon their continuing prayers and faith, where the program is a major source of contributions to the church and where the court order enforcing the subpoena duces tecum requires extensive disclosure of the church's financial records, including information identifying the participants in the program and the church's investment and expenditure choices.

RULE 29.1 STATEMENT

Petitioner, Greater Ministries International, Inc., is a corporation organized solely for religious and educational purposes under Florida not-for-profit law. It has no parent companies, subsidiaries, or affiliates.

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PETITION FOR A WRIT OF CERTIORARI TO THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR HILLSBOROUGH COUNTY FLORIDA

Greater Ministries International, Inc. respectfully petitions for a writ of certiorari to review the order of the Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida.

OPINIONS BELOW

The order of the Circuit Court of the Thirteenth Judicial Circuit In and For Hillsborough County, Florida (1a-2a)[1/] is not reported. The order denying Greater Ministries International, Inc.'s petition to the Second District Court of Appeal for a writ of certiorari (3a) is not reported.

JURISDICTION

A final order of the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida was entered on July 19, 1995. The Second District Court of Appeal of Florida, which is here the state court of last resort, denied a timely petition for a discretionary writ of certiorari on March 8, 1996.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

1/ References to "__a" are to the appendix to this petition attached hereto.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The First Amendment to the Constitution of the United States.

The Religious Freedom Restoration Act of 1993 (*codified* at 42 U.S.C. §§ 2000bb to 2000bb-4).

These provisions are set forth at 15a-17a in the appendix attached hereto.

STATEMENT OF THE CASE

Greater Ministries International, Inc. (hereinafter "Greater Ministries" or "the Church") is organized solely for religious and educational purposes under Florida not-for-profit corporation law and is a recognized tax-exempt organization under 26 U.S.C. § 501(c)(3). The Church is a worldwide religious movement, the tenets and doctrine of which are based on New Testament gospel. Faith in the sustaining and healing powers of Jesus Christ underlie the Church's theology, doctrines, policies, and programs. As part of its religious mission, Greater Ministries runs charitable programs and services helping the homeless, ex-convicts, people with alcohol and drug problems, the elderly, and orphans. It also supports schools and missionaries in Asia, Africa, the Caribbean, Latin America, and Eastern Europe. Aff. of Rev. Gerald D. Payne (hereinafter "Payne Aff.") ¶ 5 (10a), submitted to the circuit courtin support of Greater Ministries' motion to dismiss the subpoena.

The Double Your Blessing program (the "Program") is an evangelical gift program of Greater Ministries. The Church accepts money for this program only from actively and sincerely believing Christians; indeed, it is a requirement of the Program that only sincere believers in the power of Jesus Christ

who have made a commitment to the will of God can participate. Greater Ministries does not solicit and explicitly refuses to accept any money from donors who give merely for secular reasons such as the expectation of receiving a financial benefit or of reaping some other sort of material reward for their donation. *Id.* ¶¶ 10-16 (10a-11a).

On June 9, 1995, the State Attorney of Florida for the Thirteenth Judicial Circuit served a "Subpoena Duces Tecum for Records" on the Tampa Office of Greater Ministries. (6a) The subpoena, issued the previous day by the Clerk of the Circuit Court of the Thirteenth Judicial Circuit, sought Church documents extending over areas of inquiry so broad as to constitute virtually all documents in the Church's possession. The subpoena required production of the following items:

1. All documents pertaining to the "Double Your Blessing" Gift Program, including, but not limited to:

   A. All records reflecting incoming gifts received by or to-be-received by Greater Ministries International, Inc., including any schedules, letters, statements, files, bank records, etc.

   B. All records reflecting outgoing gifts paid or to-be-paid by Greater Ministries International, Inc., including any schedules, letters, statements, files, bank records, etc.

   C. All limited power of attorney agreements.

   D. All records reflecting names, addresses, fax numbers, or any other identification of individuals or entities making gifts to or receiving gifts from Greater Ministries International, Inc., pursuant to the "Double Your Blessing" Gift Program.

2. All documents pertaining to any investments in gold, precious metals, or other commodities including, but not limited to:

   A. Any internal records that would reflect amounts of money invested in gold, precious metals, or other commodities.

   B. Any internal records that would reflect amounts of money received or returned to Greater Ministries International, Inc., as a result of any investments in gold, precious metals, or other commodities.

   C. All records reflecting names, addresses, fax numbers, or any other identification of any brokers, dealers, investment managers, investment advisors, etc., that have assisted Greater Ministries International, Inc., in purchasing or investing in gold, precious metals, or other commodities.

   D. Any statements, letters, records, or other documents given to or received from brokers, dealers, investment managers, investment advisors, etc., that would reflect any investments in gold, precious metals, or other commodities or returns on investments in gold, precious metals, or other commodities.

3. All bank statements, including cancelled checks, check stubs, deposit and withdrawal receipts, for any account used by Greater Ministries International, Inc., in connection with the "Double Your Blessing" Gift Program.

Accompanying the subpoena was a letter from the State

Attorney explaining that the subpoena was part of "an inquiry to see how the Double Your Blessing Gift Program" -- a Ministry program, participation in which depends entirely on belief in the powers of Jesus Christ -- "works and to review the magnitude and nature of the Program as implemented by Greater Ministries International, Inc." Letter from State Attorney to Greater Ministries dated June 9, 1995 (4a).

Greater Ministries challenged the validity of the subpoena in its motion to dismiss the subpoena duces tecum filed in the circuit court on June 21, 1995. The motion challenged the subpoena and the stated reason for the investigation on the grounds that the subpoena violated the religion clauses of the United States and Florida Constitutions. The motion also challenged the subpoena's vagueness and the burdensome overbreadth of the demands on Greater Ministries, as well as the potential for unconstitutionally violating the privacy of its members.

The State Attorney opposed Greater Ministries' motion, and a hearing was held on June 27, 1995 before Circuit Judge Walter R. Heinrich. In an order entered July 19, 1995 (the "Order"), the Circuit Court of the Thirteenth Judicial District in and for Hillsborough County denied the motion to dismiss the subpoena and ordered that Greater Ministries produce various documents to the State Attorney, including

1. All records pertaining to the bank account held by Greater Ministries International, Inc., at Key Bank of Tampa, from March 22, 1993, through June 27, 1995;[2/]

[2/] This account contained donations to the Program as well as other donations, receipts, and Church revenue. All contributions to the Church are deposited into its general revenue. *See* Payne Aff. ¶ 9 (10a).

2. All records related to any investment of monies received by Greater Ministries, Inc., pursuant to the Double Your Blessing Gift Program, including any information that would show how investments are taking place.

Circuit Court Order (1a). The court additionally ordered that these records "are required to be turned over regardless of where they are currently being kept." *Id.* While the circuit court's order limited the scope of the original subpoena the constitutional infirmity has not been cured. For example, revelation of the bank records the circuit court has ordered the Church to disclose to the State will reveal the identity of Program participants, thereby also revealing participants' subscription to those private protected beliefs that participation in the Program requires. The Order also interferes with Church governance, for it requires the Church to reveal information about Church beliefs, practices, and priorities by demanding disclosure of records relating to the Church's religiously-based investment choices.

Ministries timely filed its Notice of Appeal/Petition for Writ of Certiorari on July 20, 1995. The Second District Court of Appeal treated this appeal/petition as a petition for a writ of certiorari, which was denied on March 8, 1996.

REASONS FOR GRANTING THE WRIT

Granting certiorari will allow the Court to define the constitutional and legislative constraints on the State's power to demand documents from religious organizations when such demands are grossly overbroad and interfere with the free exercise of religion. The importance of clearly-defined judicial constraints on the reach of a subpoena directed at a religious organization is paramount, since (a) the First Amendment and the Religious Freedom Restoration Act of 1993 provide

religious organizations and their members with heightened safeguards from state encroachment, and (b) the most cherished and revealing convictions and beliefs of members of religious organizations and of participants in their programs, including matter of faith at the core of individual identity, are vulnerable to public exposure and state scrutiny. Authoritative guidance from this Court is required to ensure that law enforcement officials and lower courts do not tread on the precious rights that allow religious organizations to flourish by expanding the subpoena power beyond its constitutional and statutory limitations.

At the hearing on Greater Ministries' motion to quash the subpoena duces tecum, the court asked "to hear from the State as to what their purpose is and what it is you are intending to investigate on Greater Ministries International, Inc." (Tr.-8)[3/] The State's Attorney told the Court that the State believed there had been a possible violation of state securities law. (Tr.-10) Despite the fact that the State conceded it had received no complaints about the Double Your Blessing Program (Tr.-12), the State's Attorney said, in addition to investigating a possible crime, that the state sought "to determine who had invested money in this [program]." (Tr.-11) The State's Attorney expressly stated that it wished to investigate whether Greater Ministries was a bona fide Church: "[T]he State is concerned with the question of whether we even have *a legitimate church*, as -- *as we know churches* to be, and that perhaps it may just be a setup." (Tr.-14) (emphasis added). The State has explicitly declared that a principal purpose in issuing the subpoena was to do precisely what the religion clauses of the First Amendment prohibit. Although the State also contended that it was merely trying to enforce the generally applicable securities laws, its own statements lead ineluctably to the

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[3/] The transcript of the hearing on June 27, 1995 before Circuit Judge Heinrich is cited to herein as "Tr. -__".

conclusion that this justification was pretextual, for they clearly manifest a pernicious and constitutionally-offensive desire to determine whether Greater Ministries comports with an officially-sanctioned definition of what constitutes a "legitimate" church.

The issuance and legality of a subpoena necessarily depends upon the particular facts present in a given set of circumstances. Nevertheless, the parameters of acceptability can and must be judicially determined by this Court in order to provide guidance to state officials and lower courts all too willing to sacrifice First Amendment protections upon a simple recital that it is in the government's interest that core religious information be revealed or documents produced. The extent to which the First Amendment provides protection from the indiscriminate use of the subpoena power is an area of law not susceptible to bright line rules. Therefore, clarification of the dispositive factors to be evaluated, balanced, and weighed when a subpoena requiring a religious organization to reveal information about its internal operations is issued so that religious organizations, their members and potential members, and state officials can conduct their affairs with settled expectations. This case provides a paradigmatic example of an enforcement order that reaches too far. It provides the Court with an opportunity to define with clarity the extent of the protections the First Amendment and the Religious Freedom Restoration Act afford religion from overreaching state actors.

I. The Extent Of The State's Subpoena Power To Interfere With The Affairs Of A Church Must Be Clarified To Prevent Unconstitutional Entanglement

The Order modifying and enforcing the State Attorney's subpoena is exceedingly onerous and intrusive. By seeking wide-ranging information on how money donated to the

Church's Double Your Blessing program, one of the Church's primary sources of funds, is spent, the order modifying the subpoena subjects virtually all of the Church's activities and practices to state scrutiny. By itself, this violates the First Amendment.[4/] However, the unconstitutionality is compounded by the State's explicit intention to examine the purposes to which the Church applies its funds.

In *N.L.R.B.* v. *Catholic Bishop of Chicago,* 440 U.S. 490 (1979), this Court held that the mere gathering of information by government officials was impermissible in the religious context: "It is not only the conclusions that may be reached by the Board which may impinge on rights guaranteed by the Religion Clauses, but also the very process of inquiry leading to findings and conclusions." *Id.* at 502. In a warning that seems prescient here, the United States Court of Appeals for the First Circuit held that an investigation by the Puerto Rico Department of Consumer Affairs into costs and disbursements of a Catholic school was unconstitutional:

> As has long been recognized, "compelled disclosure has the potential for substantially infringing the exercise of First Amendment rights." *Buckley* v. *Valeo,* 424 U.S. [1] at 66 [(1976)]. We see that potential in the chilling of the decision making process [of the church institution] occasioned by the threat that those decisions will become the subject of public hearings and eventually, if found wanting, will be supplanted by public control. . . . And even if that governmental control should not come to pass, disclosure of the school's finances -- from amounts of donation to details of expenditures -- could provide

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[4/] The First Amendment of the United States Constitution applies to the states through the Fourteenth Amendment. *E.g., Murdock* v. *Pennsylvania,* 319 U.S. 105 (1943).

> private groups or the press with the tools for accomplishing much the same ends.

Surinach v. *Pesquera de Busquets*, 604 F.2d 73, 78 (1st Cir. 1979).

Under the three-prong test announced in *Lemon* v. *Kurtzman*, 403 U.S. 602 (1971), government action unlawfully violates the Establishment Clause of the First Amendment[5/] if (1) it lacks a "secular purpose," *Id.* at 612, *or* if (2) its primary effect is to advance or inhibit religion, *or* if (3) it "foster[s] 'an excessive government entanglement with religion.'" *Id.* at 613 (*quoting Walz* v. *Tax Commissioners*, 397 U.S. 664, 674 (1970)); *see also Church of Scientology* v. *City of Clearwater*, 2 F.3d 1514, 1527 (11th Cir. 1993), *cert. denied*, __ U.S. __, 115 S. Ct. 54 (1994); *American Civil Liberties Union* v. *Rabun County Chamber of Commerce, Inc.*, 678 F.2d 1379, 1389 (11th Cir. 1982).

By prohibiting "excessive entanglement" in church affairs,

[5/] It is important to note that there is no bright line between the protections of the Free Exercise Clause and the prohibitions of the Establishment Clause. *See, e.g., School Dist. of Abington* v. *Schempp*, 374 U.S. 203, 222 (1963). Indeed, both clauses serve to protect the same interest of keeping the affairs of Church and State separated from each other. As the Supreme Court observed in *Aguilar* v. *Felton*, 473 U.S. 402, 409-10 (1985):

> When the state becomes enmeshed with a given denomination in matters of religious significance, the freedom of religious belief of those who are not adherents of that denomination suffers, even when the governmental purpose underlying the involvement is largely secular. In addition, the freedom of even the adherents of the denomination is limited by the governmental intrusion into sacred matters.

the First Amendment explicitly forbids the close government surveillance of a religious organization's expenditures, *e.g.*, *Aguilar* v. *Felton*, 473 U.S. 402 (1985), and it prohibits the detailed scrutiny of daily operations. *Jimmy Swaggart Ministries* v. *Board of Equalization*, 493 U.S. 378, 395-96 (1990). Thus, while "generally applicable administrative and record keeping regulations" may apply to religious organizations, deeper intrusions still offend the First Amendment. *Id.* This Court has strictly differentiated narrowly drawn routine regulations from "inquiries into religious doctrine" involving "'detailed monitoring and close administrative contact' between secular and religious bodies." *Hernandez* v. *Commissioner of Internal Revenue*, 490 U.S. 680, 696-97 (1989) (quoting *Aguilar*, 473 U.S. at 414); *see also Church of Scientology* v. *City of Clearwater*, 2 F.3d at 1535-36. Indeed, government action, which compels a church to divulge a substantial part of its budget and operations, which empowers a civil authority to monitor a church's spending over long periods, and which resorts to the threat of criminal sanctions for enforcement is "'significantly more intrusive into religious affairs.'" *Id.* at 1536 (quoting *Tony & Susan Alamo Foundation* v. *Secretary of Labor*, 471 U.S. 290, 306 (1985)).

The Order presents a clear case of entanglement, in violation of the third prong of the *Lemon* test. The State's investigation, if allowed to proceed in its current overreaching fashion, requires the disclosure of all records relating to Greater Ministries' bank account and a detailed accounting of how the Church spent its money. Thus, the State will engage in "comprehensive, discriminating, and continuing . . . surveillance" of the church, resulting in "excessive and enduring entanglement between state and church." *Lemon*, 403 U.S. 619.[9] Even the prospect of disclosing how much of its

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[9] *Jimmy Swaggart Ministries*, and *Hernandez* underscore this view. The Court in *Swaggart* drew a clear distinction between neutral state

funds a church actually has expended, or intends to expend, in pursuit of its mission and programs "will affect the way an organization carr[ies] out what it underst[ands] to be its religious mission." *Corporation of the Presiding Bishop* v.

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regulations that entail "neither the involvement of state employees in, nor on-site continuing inspection of, [the church's] day-to-day operations," which would pass constitutional muster, 493 U.S. at 395-96, and regulations and enforcement actions which -- like the Order at issue here -- involve "official and continuing surveillance" of the church's day-to-day operations, or which require state inquiry into religious motive, content, or purpose underlying the transaction. *Id.* (citing and quoting *Walz*, 397 U.S. at 675). In *Hernandez*, the Court premised its decision upholding a federal revenue statute, the constitutionality of which was challenged by the Church of Scientology, on the finding that -- in marked contrast to the official action presently under consideration -- it involved no detailed or close official monitoring of the activities and expenditure of a religious organization, and that no allegation had been made that it was "born of animus to religion in general or Scientology in particular." 490 U.S. at 696.

Similarly, in *Tony and Susan Alamo Foundation*, the Court held that application of the Fair Labor Standards act to commercial businesses operated by a nonprofit religious organization did not violate the Establishment Clause. The Court reasoned that the record-keeping and reporting requirement at issue "apply only to commercial activities undertaken with a 'business purpose,' and would therefore *have no impact on petitioner's own evangelical activities*." 471 U.S. at 305 (emphasis added). The subpoena issued in this case is quite different: as noted *ante*, Greater Ministries' Double Your Blessing Program is an integral part of the church's evangelical activities and, indeed, no one is permitted to take part in the program for a "business purpose," since participation requires a confession of faith. In addition, as is discussed *post*, enforcing the subpoena would have an adverse effect on the associational rights of the church, and would therefore adversely affect the church's evangelical activities. Enforcement of the subpoena therefore would necessarily lead to the Florida state government's excessive involvement in the affairs of Greater Ministries in violation of the Establishment Clause.

Amos, 483 U.S. 327, 336 (1987); *see also Forest Hills Early Learning Center, Inc.* v. *Grace Baptist Church*, 846 F.2d 260, 263 (4th Cir. 1988) (recognizing the significant burden on a religious organization when it is forced to explain its beliefs and practices before an official who may not understand its religious tenets and mission), *cert. denied*, 488 U.S. 1029 (1989); *Fernandes* v. *Limmer*, 465 F. Supp. 493, 504 (N.D. Tex. 1979) ("No church . . . should be compelled to . . . explain the source and use of each dollar without a showing of compelling need achievable by no adequate alternative," and finding no such need in the context of solicitation activity), *aff'd in part and reversed in part*, 663 F.2d 619, 631 (5th Cir. 1981) (finding First Amendment bar "to a complete financial audit" of churches under guise of solicitation ordinance); *Taylor* v. *City of Knoxville*, 566 F. Supp. 925, 930 (E.D. Tenn. 1982) ("[l]aws allowing an investigation into financial affairs of religious institutions have been held unconstitutional as an impermissible entanglement of the affairs of church and state"); *Sylte* v. *Metropolitan Government*, 493 F. Supp. 313, 319 (M.D. Tenn. 1980) (same).

The record makes it abundantly clear that the State's purpose in issuing the subpoena was to engage in precisely the sort of close and comprehensive monitoring of the Church that the First Amendment prohibits.[7/] Indeed, at the hearing before the circuit court, the State asserted that the subpoena would allow it to determine if praying to God, which is an essential requirement of the Double Your Blessing Program, was "the central tenant (sic) of the religion." Tr. at 57-58. The State went so far as to argue that it was "not very credible" to

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[7/] Judicial involvement does not cure the entanglement problems at issue here. The courts are, of course, no less constrained by the prohibitions of the First Amendment than any other arm of government. *See, e.g., Natal* v. *Christian and Missionary Alliance*, 878 F.2d 1575, 1576-77 (1st Cir. 1989), and cases cited therein.

believe that the faith partnership existing between participants in the Program and the Church -- the theological basis of the Program -- could be a core belief of the Church. *Id.*

The regulation of a religious association must be "addressed to a sufficiently 'compelling' governmental interest," and also be "closely fitted" to serve that interest. *Larson* v. *Valente*, 456 U.S. at 248.[8/] However, where, as here, the government has made no showing that an affirmative misrepresentation even has occurred,[9/] there can be no fraud, and therefore no compelling state interest sufficient to justify intervention in the affairs of a religious association. *See, e.g., City of Clearwater,* 2 F.3d at 1544 ("When no affirmative misrepresentations are made concerning the uses for which funds are employed . . . the state has no compelling interest in requiring members or the public to be made aware of such matters."). Participation in the Program is voluntary and the state "may not substitute its own judgment as to the desirable level of disclosure." *Id.* Thus, the United States Court of Appeals for the Eleventh Circuit reasoned that if adherents to a religious organization are "willing to contribute money without being told how it will be used, then [Florida] has no interest in forcing the church to make such information available." *Id.* The *Clearwater* Court's reasoning is equally

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[8/] *See also Village of Schaumburg* v. *Citizens for a Better Environment,* 444 U.S. 620, 636 (1985), which applied same strict analysis applied to charitable solicitation by nonreligious group protected by the Speech provisions of the First Amendment. It is submitted that a religious group like Greater Ministries is triply protected against State intrusion. First, Ministries is protected by the Religion Clauses. Second, it is protected by the Speech Clauses. Finally, as discussed in more detail below, it enjoys the added protection of the Religious Freedom Restoration Act.

[9/] The State's Attorney conceded that the State of Florida has received no complaints with respect to Greater Ministries. Tr.-12.

applicable here:

> [R]equiring a church to make detailed information about its activities available to members and the public, . . . has the direct effect of subtly shifting the balance of power between the laity and the central ecclesiastical authority. While democratic participation by individual members in the affairs of society is a cornerstone of our public life, government may not mandate such arrangements in private organizations. In addition to this legislatively sanctioned reordering of church hierarchy, of course, [compliance with the Order would] require[] prosecutorial and judicial authorities to assure compliance with the [Florida securities laws] by investigation and criminal enforcement. In accomplishing these results [the State would] impermissibly impose[] its own preferences concerning the degree of disclosure to members concerning daily operations.

Id. at 1536 (citation omitted).

The State Attorney has indicated possible violations of Florida securities law[10/] as the reason for the present

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[10/] Under Florida law, essential to an instrument's status as a "security" under Florida Statutes § 517.021 is the reasonable expectation of profits that are generated, if any, are derived *solely* from the efforts of the promoter or a third party. *E.g., Yoemans* v. *Department of Banking and Finance,* 452 So.2d 1011, 1012-13 (Fla.App.3d Dist.), *rev. denied,* 461 So.2d 114 (1984); *Adams* v. *State,* 443 So.2d 1003 (Fla.App.2d Dist. 1983), *rev. denied,* 449 So.2d 265 (1984); *Rudd* v. *State,* 386 So.2d 1216, 1218-19 (Fla.App.5th Dist. 1980), *pet. denied,* 392 So.2d 1380 (1981); *Brown* v. *Rairigh,* 363 So.2d 590, 592 (Fla.App.4th Dist. 1978); *Levine* v. *I.R.E. Properties,* 344 So.2d 938, 940 (Fla.App.3d Dist. 1977); *Stowell* v. *Ted S. Finkel Investment*

investigation of the Double Your Blessing Program, which clearly and unambiguously involves the active exercise of Christian faith and prayer. Payne Aff. ¶¶ 7-16 (10a-11a); *see also* Program Registration Form (13a). As noted *post*, the record suggests that other motives may be at work here, for there is evidence of the State Attorney's discriminatory bias against Greater Ministries. However, even if the record were devoid of indications of invidious purpose, the proffered reason still cannot justify the investigation. The First Amendment directs that laws of neutral application must be interpreted so that religious practice is not unnecessarily burdened.

No misrepresentation to the public has been shown, and in any event, it is patently unconstitutional to base a fraud case on an examination of the truth or falsity of religious representations. *E.g., United States* v. *Ballard*, 322 U.S. 78, 85-88 (1944). Although the sincerity of religious beliefs is subject to examination, the State in this case has not suggested that the clergy or members of Greater Ministries are insincere in the beliefs that they profess, though it has suggested that the State believes one of the theological bases of the Program is

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Services, Inc., 489 F. Supp. 1209, 1224 (S.D. Fla. 1980), *aff'd*, 641 F.2d 323 (5th Cir. 1981). Thus, even if one were to ignore -- unconstitutionally -- the obvious implications of the State Attorney's investigations for religious freedom, the Double Your Blessing Program does not involve the "sale" of "securities" under Florida law. It is quite clear from the Program's enrollment material that the prayer, faith, and devotion of the "investor" are necessary ingredients to the success of the supposed "venture"; it is not solely up to the efforts -- sacred or profane -- of Greater Ministries and its full-time clergy. Payne Aff. ¶¶ 7-16 (10a-11a). The fact that the Double Your Blessing Program explicitly represents that any outcome depends on the power of Jesus Christ is constitutionally significant in two respects: The First Amendment precludes a court from determining (1) whether Jesus Christ exists and (2) whether the expectation of spiritual or material reward as a result of the intervening efforts of Jesus Christ is a "reasonable" one.

"not very credible." Tr. 57-58.

The fact that the surveillance of church affairs takes place in the context of a preliminary criminal inquiry only heightens the constitutional offense involved in ordering a church to disclose its records. Indeed, the use of criminal proceedings -- and the threat of unleashing criminal enforcement mechanisms for noncompliance -- make the entanglement "doubly offensive," as investigation carries with it the risk of still deeper governmental intrusion into the church's intramural affairs and decision-making. *Church of Scientology* v. *City of Clearwater*, 2 F.3d at 1538.

II. The Order Modifying and Enforcing The Subpoena Violates The Associational Rights Of Participants In Greater Ministries' Program

First Amendment freedoms "are protected not only against heavy-handed frontal attack, but also from being stifled by more subtle governmental interference." *Bates* v. *City of Little Rock*, 361 U.S. 516, 523 (1960). Among the wide range of governmental actions subject to First Amendment constraints are court-ordered demands for information and records, such as the order and subpoena at issue here.

It is an unconstitutional infringement of the First Amendment right of association to require the disclosure of private activities, such as the membership lists and contributions made by members of political and religious organizations. Greater Ministries' parishioners and its Program participants have a right not to be subjected to a sweeping demand by the State for materials identifying their affiliation with the Church and their participation in Church programs.[11/] *E.g.*, *Buckley* v.

[11/] In this respect, Greater Ministries asserts not only its own rights, but also seeks to vindicate the First Amendment interests of its members

Valeo, 424 U.S. 1 (1975); *NAACP* v. *Alabama*, 357 U.S. 449 (1958); *see also Gremillion* v. *NAACP*, 366 U.S. 293 (1961) (injunction against statute requiring the filing of membership lists of nonprofit organizations); *Talley* v. *California*, 362 U.S. 60, 64-65 (1960) (invalidating conviction under law requiring name of author and sponsor to be printed on handbills). Yet this is precisely the sort of information that the State now seeks, in spite of the firmly established prohibition against such disclosure dictated by the constitutional guarantees of freedom of association and the right of privacy. *Cf. Brown* v. *Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 95 (1982) (First Amendment prohibits State from compelling disclosure of contributions to, and receipts of funds from, political party).

The right of associational privacy also extends to the financial affairs of organized groups:

> The right to join together for the advancement of beliefs and ideas is diluted if it does not include the right to pool money through contributions, for funds are often essential if advocacy is to be truly or optimally effective. Moreover, the invasion of privacy of belief may be as great when the information sought concerns the giving and spending of money as when it concerns the joining of organizations, for financial transactions can reveal much about a person's activities, associations, and

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and those participate in its programs. It has standing to do so. To use the Supreme Court's words in *NAACP* v. *Alabama*, "If [appellant's] rank-and-file members are constitutionally entitled to withhold their connection with the [Greater Ministries] despite the production order, it is manifest that this right is properly assertable by [Greater Ministries]. To require that it be claimed by the members themselves would result in nullification of the right at the very moment of its assertion." 357 U.S. 449, 459 (1958).

beliefs.

Buckley v. *Valeo*, 424 U.S. at 65-66 (internal quotations and citations omitted). The far-reaching disclosures that the State seeks with its subpoena threatens the same "invasion of privacy of belief," for it requires the Church and the Program participants to reveal how they spend their money.

The compelled disclosure of the financial affairs of a *church* raises even more constitutional concerns, for it infringes on the First Amendment right of free exercise and the prohibition against entanglement in religious affairs, as well as the freedom of association. *E.g.*, *Surinach* v. *Pesquera de Busquets*, 604 F.2d at 78. Thus, where as here the threatened government intrusion raises privacy considerations as well as concerns under the Religion Clauses of the First Amendment, courts have been exceptionally loath to permit government inspection of a religious organization's fiscal management. *See id.*

III. The Order Unconstitutionally Interferes With The Relationship Between The Church And Its Members

This Court has repeatedly recognized the rights of individuals to form voluntary associations for common purposes -- religious, or otherwise -- and has subjected interferences with the internal relationships with such associations to exacting scrutiny. *E.g.*, *Eu* v. *San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 231-33 (1989) (restrictions on internal affairs of political party burdened "associational rights of political parties and their members"; upheld only if restriction serves compelling state interest and is narrowly tailored to serve that interest); *Tashjian* v. *Republican Party*, 479 U.S. 208, 224 (1986); *Roberts* v. *United States Jaycees*, 468 U.S. 609, 622-23 (1984); *NAACP* v. *Claiborne Hardware Co.*, 458 U.S.

886, 907-09, 932-33 (1982); *Larson* v. *Valente,* 456 U.S. 228, 244-46 (1982); *Gibson* v. *Florida Legislative Investigation Comm.,* 372 U.S. 539, 565 (1963) (Douglas, J., concurring).

With respect to religious organizations, the Establishment Clause affords heightened protection against interference with the internal affairs or governance of voluntary religious associations.[12/] One of the clearest stars in the constitutional firmament has been that civil authority must avoid involvement in "matters of discipline, faith, internal organization, or ecclesiastical rule, custom or law." *Serbian Eastern Orthodox Diocese* v. *Milivojevich,* 426 U.S. 696, 713 (1976); *accord Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church,* 393 U.S. 440, 449 (1969); *Simpson* v. *Wells Lamont Corp.,* 494 F.2d 490, 493 (5th Cir. 1974). The corollary of this principle applies with equal clarity to disputes arising between a church and its members -- or, as is often the case, between the church and a dissatisfied ex-member. For well over one hundred years, it has been firmly established that

> [t]he judicial eye cannot penetrate the veil of the Church for the forbidden purpose of vindicating the alleged wrongs of excised members; when they become members they did so upon the conditions of continuing or not as they and their churches might determine, and they thereby submit to the

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[12/] Solicitation can also constitute the exercise of religion and thus restrictions may implicate Free Exercise concerns; for many religious groups, the very process of fund raising is so intertwined with a religious mission that fund raising itself becomes a core religious practice. *See, e.g., Hernandez* v. *Commissioner,* 490 U.S. at 684-85; *International Soc'y of Krishna Consciousness* v. *City of Houston,* 689 F.2d 541, 544-45 (5th Cir. 1982). The Double Your Blessing Program is both a "faith partnership," and a major source of funds for Greater Ministries. Payne Aff. ¶¶ 7, 11 (10a).

> ecclesiastical power and cannot now invoke the supervisory power of the civil tribunals.

Watson v. *Jones*, 80 U.S. (13 Wall.) 679, 722 (1872); *see also Kedroff* v. *Saint Nicholas Cathedral*, 344 U.S. 94, 115-16 (1952) (recognizing that the *Watson* principle is constitutionally mandated); *Prince* v. *Massachusetts*, 321 U.S. 158, 178 (1944)[13]; *Crowder* v. *Southern Baptist Convention*, 828 F.2d 718, 721-26 (11th Cir. 1987), *cert. denied*, 484 U.S. 1066 (1988); *Paul* v. *Watchtower Bible Tract Society*, 819 F.2d 875, 883 (9th Cir.), *cert. denied*, 484 U.S. 926 (1987); *Burgess* v. *Rock Creek Baptist Church*, 734 F. Supp. 30 (D.D.C. 1990). Greater Ministries and other religious organizations "must be free to decide for themselves, free from state interference, matters which pertain to church government, faith and doctrine." *Natal* v. *Christian and Missionary Alliance*, 878 F.2d 1575, 1577 (1st Cir. 1989) (*quoting Dowd* v. *Society of St. Columbans*, 861 F.2d 761, 764 (1st Cir. 1988) (per curiam)).

Thus, even if the State's purpose were limited to investigating a complaint by an adherent or an ex-follower of Greater Ministries, the subpoena would amount to an unlawful exercise of civil authority to settle what is essentially an ecclesiastical dispute. *E.g.*, *Presbyterian Church* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. at 449. "[T]he law is clear: civil courts" -- indeed, all civil authorities -- "are barred by the First Amendment from determining ecclesiastical questions." *Simpson* v. *Wells Lamont*

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[13] In *Prince*, the Supreme Court found that the government conceivably could interfere in the relationship between a church and member but only in the rarest of circumstances -- not presented here -- where there was the threat of death or serious bodily injury, or where "activities begin to affect or collide with liberties of others or of the public." 321 U.S. at 177.

Corp., 494 F.2d at 493; *see also Kedroff* v. *St. Nicholas Cathedral*, 344 U.S. at 119. "Civil authority 'cannot penetrate the veil of the church for the forbidden purpose of vindicating the alleged wrongs of . . . members.'" *Church of Scientology* v. *City of Clearwater*, 2 F.3d at 1544 (quoting *Watson* v. *Jones*, 80 U.S. (13 Wall.) 579, 731 (1872)). The courts and other civil authorities simply cannot involve themselves in the consideration of disputes over matters of ritual, faith, liturgy, or worship. *Watson* v. *Jones*, 80 U.S. at 731.

Nor is evangelical work which includes proselytization and solicitation from *the public* any less entitled to constitutional protection. The significance of fundraising is twofold -- it is an effective way of disseminating beliefs and proselytizing, as well as being necessary for a church or other First Amendment-protected association, religious or otherwise, to survive. *E.g.*, *United States* v. *Kokinda*, 497 U.S. 720 (1990); *Riley* v. *National Federation of the Blind*, 487 U.S. 781, 788-89 (1988); *Village of Schaumburg* v. *Citizens For A Better Environment*, 444 U.S. at 629; *Murdock* v. *Pennsylvania*, 319 U.S. at 110-12; *Cantwell* v. *Connecticut*, 310 U.S. 296 (1940).

The solicitation of funds by religious groups is protected under the freedom of religion, freedom of speech, and freedom of association guarantees of the First Amendment. *See, e.g.*, *Murdock*, 319 U.S. 105; *Larson* v. *Valente*, 456 U.S. 228; *Church of Scientology* v. *City of Clearwater*, 2 F.3d 1514; *International Soc'y for Krishna Consciousness* v. *City of Houston*, 689 F.2d 541, 553 (5th Cir. 1982). When the state seeks to regulate solicitation, the First Amendment requires courts to scrutinize the regulation carefully to ensure that there is no infringement upon protected activity. *E.g.*, *Riley* v. *National Federation of the Blind*, 487 U.S. at 789 (regulation of charitable solicitation restricting amount of money spent on fundraising subject to "exacting First Amendment scrutiny"); *Village of Schaumburg*, 444 U.S. at 637 (regulations must be

"narrowly drawn" so as not to interfere with First Amendment freedoms); *Abramson* v. *Gonzalez* 949 F.2d 1567 (11th Cir. 1992) (regulation of expressive speech must be "necessary to serve a compelling state interest, and narrowly drawn to achieve that interest").

The Order enforcing the subpoena commands the Church to reveal the details of its finances and to account for its expenditures, "penetrates deeply into the internal affairs" of the Ministries. *Larson* v. *Valente*, 456 U.S. at 253 n.29. The State Attorney explicitly stated that the documents were required "to determine all the people that may have made donations to participate in the Double Your Blessing Program. . . . We need to know from the church who is it that has invested in this program." Tr.-62.

The purported purpose of the subpoena, to investigate possible fraud and securities law violations allegedly committed against voluntary and uncomplaining participants in the Double Your Blessing Program, is not even a legitimate interest in this context, for the State has no proper interest in dictating to a voluntary association how it should conduct its internal affairs. Moreover, the State is specifically forbidden from dictating to a religious organization how it should govern itself. *E.g.*, *Serbian Eastern Orthodox Diocese*, 426 U.S. at 713; *Presbyterian Church*, 393 U.S. at 449; *Kedroff*, 344 U.S. at 115-16; *Watson*, 80 U.S. (13 Wall.) at 677; *Simpson* v. *Wells Lamont Corp.*, 494 F.2d at 493. Although it was never disputed that the religious tenets of the Church are sincerely held, the State has made the purpose of its subpoena clear. The State Attorney explicitly asserted that the purpose of the subpoena was to evaluate the nature and structure of the church: "[t]he defendant here claims to be a church. . . . However, we've very concerned about how -- how much of an [ecclesiastical] enterprise really is there." Tr.-13. The State is improperly using its subpoena power to evaluate the beliefs and

practices of a Church which the State finds suspicious.

Nor is the official surveillance and monitoring that the State seeks to engage in justified by the possibility that people in the general public, outside the Ministries' membership, have been solicited or have donated money. *Larson* v. *Valente*, 456 U.S. at 252-55; *see also Church of Scientology* v. *City of Clearwater*, 2 F.3d at 1537 ("The tendency toward establishing religion that inheres in laws requiring public disclosure and official surveillance of church finances and activities is the same whether the regulation is occasioned by solicitations of co-religionists or church outsiders.").

IV. The Order Modifying and Enforcing The Subpoena Violates The Religious Freedom Restoration Act.

In the wake of the Supreme Court decision in *Employment Division* v. *Smith*, 494 U.S. 872, 882 (1990), which appeared to set less exacting requirements for a limited set of Free Exercise cases, Congress enacted the Religious Freedom Restoration Act of 1993, 42 U.S.C. §§ 2000bb to 2000bb-4 (the "Act"), which directly overrules the test described in *Smith*.[14/] The Act directs federal and state courts to apply strict

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[14/] The *Smith* test would not have applied to the present controversy in any event. As the Supreme Court explained, the test was limited to "a free exercise claim unconnected with any communicative activity or parental right." 494 U.S. at 882. *Smith* carefully noted that its rule did not apply to hybrid situations -- such as the case here presented -- where a claim that state action unduly burdened religion overlapped with and was reinforced by other constitutional claims

> such as freedom of speech . . . *see Cantwell* v. *Connecticut*, 310 U.S. at 304-307 (invalidating a licensing system for religious and charitable solicitations. . .). . . And it is easy to envision a case

scrutiny to all free exercise challenges to federal, state, and local laws. It prohibits any government entity from "substantially burden[ing]" religious free exercise, "even if the burden results from a rule of general applicability," 42 U.S.C. § 2000bb-1(a), except "in furtherance of a compelling governmental interest" and then only by "the least restrictive means of furthering that compelling governmental interest." *Id.* § 2000bb-1(b). Moreover, the government bears the burden of going forward and of persuasion that a burden on religious free exercise is justified. *Id.* §§ 2000bb-1(b), 2000bb-2(3).[15/] As discussed *ante*, the Order enforcing the subpoena could not pass constitutional muster under the Free Exercise Clause. For the same reasons, the State cannot meet the exacting test and heavy burden of proof imposed by the Religious Freedom Restoration Act.

Requiring Greater Ministries to disclose the names of participants in the Program and to disclose how it is spending the money participants in the Program donate to it will force the Church, its members, and participants in the Program "to refrain from religiously motivated conduct," *Brown-El* v. *Harris*, 26 F.3d 68, 70 (8th Cir. 1994), and will "significantly inhibit or constrain conduct or expression that manifests some central tenet" of religious belief. *Werner* v. *McCotter*, 49 F.3d

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> in which a challenge on freedom of association grounds would likewise be reinforced by Free Exercise Clause concerns. *Cf. Roberts* v. *United States Jaycees*, 468 U.S. 609 (1984).

494 U.S. at 881-82. Thus, not only does *Smith* not purport to diminish the level of scrutiny required by *Riley*, *Village of Schaumburg*, and a host of other decisions, but it explicitly supports strict scrutiny of state action burdening religious and charitable solicitation.

15/ The State forthrightly conceded that the information sought would "have an affect on free practice of religion. . . ." Tr.-60.

1476, 1480 (10th Cir.), *cert. denied*, __ U.S. __, 115 S. Ct. 2625 (1995).[16] Greater Ministries interprets certain biblical passages to declare that those who contribute to the work of the Church will be blessed spiritually and materially by God. Payne Aff. ¶ 8 (10a). Greater Ministries also believes that the Double Your Blessing Program bestows spiritual benefits upon participants. *Id.* ¶ 14 (11a). The Order requires Greater Ministries to disclose the Program's participants as well as the Program's expenditures and thereby substantially burdens the free exercise of religion. Disclosure of this information substantially burdens the free exercise of religion with virtually no countervailing state interest.[17]

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[16] In *Mack* v. *O'Leary*, 80 F.3d 1175 (7th Cir. 1996), Judge Posner points out that a circuit split may be developing. *Id.* at 1178. Posner notes that the "Fourth, Ninth, and Eleventh Circuits define 'substantial burden' as one that either compels the religious adherent to engage in conduct that his religion forbids . . . or forbids him to engage in conduct that his religion requires. . . ." *Id.* The case ultimately holds, consistent with the Eighth and Tenth Circuits, that within the meaning of the Act a substantial burden on free exercise is "one that forces adherents of a religion to refrain from religiously motivated conduct, inhibits or constrains conduct or expression that manifests a central tenet of a person's religious beliefs, or compels conduct or expression that is contrary to those beliefs." *Id.* at 1179.

Posner points out that the critical problem with the approach adopted by the Fourth, Ninth, and Eleventh Circuits is that it requires courts to determine what religious practices a plaintiff is *obligated* to follow, which is a fundamental issue of religious law. *Id.*

[17] The state argued at the hearing that the Double Your Blessing Program may have involved the sale of a "security" as defined by Florida law, and that the subpoena was issued as part of an investigation to determine if any state securities law had been violated. The essential threshold determination that must be made here is whether the Double Your Blessing Program involved the sale of a security. The State has never explained how the information the Order seeks is necessary for a

In passing the Religious Freedom Restoration Act, Congress was mindful that this nation "was founded upon the conviction that the right to observe one's faith, free from Government interference, is among the most treasured birthrights of every American." S. Rep. No. 111, 103d Cong., 1st Sess. 4-5 (1993), *reprinted in* 1993 U.S.C.C.A.N. 1893-94. The Order subjects Program participants' religious convictions to state scrutiny and the harsh glare of publicity so the State can "see how the Program works," Letter from State Attorney to Greater Ministries (4a), and so the State can determine "whether we even have a *legitimate* Church, as -- we know churches to be. . . ." Tr.-14 (emphasis added). In addition, disclosure will interfere with investment and expenditure decisions that the Church leadership must make with respect to the money donated to Greater Ministries -- decisions that are made only after seeking the will of God. Payne Aff. ¶ 9 (10a). Surely the state's curiosity about the Program and even its unsupported belief that a law may have been violated is not of such magnitude that it can overcome a cornerstone principle of American life and law that has been constitutionally and legislatively hallowed.

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determination that the securities laws may have been violated. *See ante* n.10.

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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Counsel for Petitioner
Greater Ministries
International, Inc.

APPENDIX

IN THE SECOND DISTRICT COURT OF APPEAL,
LAKELAND, FLORIDA

MARCH 8, 1996

GREATER MINISTRIES INTERNATIONAL, INC.,

Case No: 95-02997
DIVISION: O

vs.

GREATER MINISTRIES INTERNATIONAL, INC.

_____/

FINAL ORDER

THIS CAUSE having come to be heard on June 27, 1995 upon the Motion to Dismiss Subpoena Duces Tecum for Records by Greater Ministries International, Inc., and the Court having heard testimony and received evidence, and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that said Motion to Dismiss Subpoena Duces Tecum for Records is denied, and it is further

ORDERED AND ADJUDGED that Greater Ministries International, Inc., shall have until July 21, 1995, within which to file a Petition for a Writ of Prohibition to prohibit the Circuit Court from enforcing its Order or to appeal this Order if the Florida Rules of Appellate Procedure allow for an appeal of this matter; if neither a Writ nor Appeal is filed, it is further

ORDERED AND ADJUDGED that Greater Ministries International, Inc., turn over the following records on or before July 25, 1995:

(1) All records pertaining to the bank account held by Greater Ministries International, Inc., at Key Bank of Tampa, from March 22, 1993, through June 27, 1995;

(2) All records related to any investment of monies

received by Greater Ministries International, Inc., pursuant to the Double Your Blessing Gift Program, including any information that would show how investments are taking place; and it is further

ORDERED AND ADJUDGED that all such records as mentioned in "1" and "2" above are required to be turned over regardless of where they are currently being kept, and it [is] further

ORDERED AND ADJUDGED that monies used or set aside to purchase a military academy in Virginia would constitute monies used for investment purposes.

DONE AND ORDERED in Chambers at Tampa, Hillsborough County, Florida, this 19th day of July 1995.

/s/ W.R. HEINRICH
CIRCUIT COURT JUDGE
THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA

cc: Anthony S. Arena, Esquire
Assistant State Attorney

H. Eugene Johnson, Esquire
Attorney for Greater Ministries International, Inc.

IN THE SECOND DISTRICT COURT OF APPEAL,
LAKELAND, FLORIDA

MARCH 8, 1996

GREATER MINISTRIES INTERNATIONAL, INC.,	)	
Appellant(s),	)	
	)	Case No: 95-02997
v.	)	
STATE OF FLORIDA,	)	
Appellee(s).	)	

BY ORDER OF THE COURT:

It is ordered that petitioner's petition for writ of certiorari is denied.

RYDER, A.C.J., and DANAHY and FULMER, JJ., Concur.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER

/s/
WILLIAM A. HADDAD, CLERK

cc: H. Eugene Johnson, Esq.
Eric M. Lieberman, Esq.
Anne E. Sheer, A.A.G.
Richard Ake, Clerk

[LETTERHEAD]

STATE ATTORNEY
HARRY LEE COE, III
Thirteenth Judicial Circuit
5th Floor County Courthouse Annex
Tampa, Florida 33602
(813) 272-5400

June 9, 1995

Greater Ministries International, Inc.
Attention: Gerald D. Payne
715 East Bird Street
Tampa, FL 33604

Dear Mr. Payne:

Attached to this letter is a subpoena for various documents related to the Double Your Blessing Gift Program. Presently, we are conducting an inquiry to see how the Double Your Blessing Gift Program works and to review the magnitude and nature of the Program as implemented by Greater Ministries International, Inc.

In addition to our request that the Corporation provide us with documents, we would also be grateful if you would voluntarily agree to discuss the Double Your Blessing Gift Program with us on June 23, 1995, at 9:00 a.m. here in our Offices. Our subpoena for documents is a formal request that can be enforced in court. Our request that you come to our Offices to discuss this Program is an informal request that you voluntarily discuss these matters with us so that we can have the benefit of your understanding in our analysis of this matter.

If you have any questions, please call. I look forward to meeting you and discussing these matters with you on June 23rd at 9:00 a.m. Please let me know if you will voluntarily speak with me at that time.

Sincerely,

HARRY LEE COE III
STATE ATTORNEY

/s/
Anthony S. Arena
Assistant State Attorney
Special Prosecutions Division

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR HILLSBOROUGH COUNTY CRIMINAL JUSTICE DIVISION

SUBPOENA DUCES TECUM FOR RECORDS

GREATER MINISTRIES INTERNATIONAL, INC.
CUSTODIAN OF RECORDS
715 East Bird Street
Tampa, FL 33604

By service of this subpoena, Greater Ministries International, Inc., is ordered to designate one of its representatives to appear and produce the following requested information to the STATE OF FLORIDA:

1. All documents pertaining to the "Double Your Blessing" Gift Program, including, but not limited to:

   A. All records reflecting incoming gifts received by or to-be-received by Greater Ministries International, Inc., including any schedules, letters, statements, files, bank records, etc.

   B. All records reflecting outgoing gifts paid or to-be-paid by Greater Ministries International, Inc., including any schedules, letters, statements, files, bank records, etc.

   C. All limited power of attorney agreements.

   D. All records reflecting names, addresses, fax numbers, or any other identification of individuals or entities making gifts to or receiving gifts from Greater Ministries International, Inc., pursuant to

the "Double Your Blessing" Gift Program.

2. All documents pertaining to any investments in gold, precious metals, or other commodities including, but not limited to:

   A. Any internal records that would reflect amounts of money invested in gold, precious metals, or other commodities.

   B. Any internal records that would reflect amounts of money received or returned to Greater Ministries International, Inc., as a result of any investments in gold, precious metals, or other commodities.

   C. All records reflecting names, addresses, fax numbers, or any other identification of any brokers, dealers, investment managers, investment advisors, etc., that have assisted Greater Ministries International, Inc., in purchasing or investing in gold, precious metals, or other commodities.

   D. Any statements, letters, records, or other documents given to or received from brokers, dealers, investment managers, investment advisors, etc., that would reflect any investments in gold, precious metals, or other commodities or returns on investments in gold, precious metals, or other commodities.

3. All bank statements, including cancelled checks, check stubs, deposit and withdrawal receipts, for any account used by Greater Ministries International, Inc., in connection with the "Double Your Blessing" Gift Program.

This information is requested pursuant to a matter pending and undetermined in which the office of HARRY LEE COE III, STATE ATTORNEY, 13th Judicial Circuit, is conducting an investigation.

You may provide this requested information in person on FRIDAY, JUNE 23, 1995, at 9:00 a.m. to Anthony S. Arena, Assistant State Attorney, Office of the State Attorney, 800 East Kennedy Boulevard, Third Floor, Tampa, Florida 33602.

Failure to comply with this subpoena may subject you to penalty by the Court:

WITNESS, RICHARD L. AKE,

Clerk of the Circuit Court and the Seal of said Court, at the Courthouse in Tampa, Florida aforesaid, this 8th day of June, 1995.

RICHARD L. AKE, Clerk

By:/s/_____
Deputy Clerk

PLEASE BILL THE AGENCY LISTED
BELOW FOR ANY SERVICE CHARGE:

STATE ATTORNEY'S OFFICE
800 EAST KENNEDY BOULEVARD
TAMPA, FLORIDA 33602 (813) 272-5400 X170

ANTHONY S. ARENA/CG

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA CRIMINAL DIVISION

STATE OF FLORIDA

Division O
(Investigation)

vs.

GREATER MINISTRIES INTERNATIONAL, INC.

_____/

AFFIDAVIT AS TO CHURCH STATUS
AND CHURCH CONTRIBUTIONS

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

BEFORE ME, The undersigned authority, personally appeared GERALD D. PAYNE, who being first duly sworn deposes and says:

(1) I am GERALD D. PAYNE, a resident of Hillsborough County, Florida, and I have personal knowledge of the facts stated herein.

(2) I am an ordained minister serving the church organization, GREATER MINISTRIES INTERNATIONAL, INC. (hereafter CHURCH).

(3) CHURCH is a non-profit corporation organized solely for religious and educational purposes, under chapter 617, Florida Statutes. A copy of the Articles of Incorporation is attached as Exhibit 1.

(4) CHURCH is exempt from Federal income tax under Section 501(a) of the Internal Revenue Code, being an organization qualified under Section 501(c)(3). The first page of an IRS letter, dated January 26, 1994, certifying CHURCH's

status under Section 501(c)(3) is attached as Exhibit 2.

(5) Typical activities of the CHURCH include: Share-Time ministry with religious services under the direction of Pastor Charles Strickland, and a "homeless" rehabilitation and prison ministry under the direction of Randy Hester; aid to those addicted to alcohol and drugs; operation of Thrift Stores for the needy; Senior care and orphanages; support to missionary families in foreign lands, including China, Laos, Haiti, Peru, India, Bolivia, Ukrane [sic], Mexico and Africa.

(6) The religious efforts of the CHURCH among the poor has been recognized by Honorable Sam M. Gibbons, Congress of the United States. A copy of his letter to Affiant is attached as Exhibit 3.

(7) One of the major sources of contributions to the CHURCH is a "Double Your Blessing" gift program. The CHURCH is committed to the truth of II Corinthians 9:6 and Luke 6:38: "Give, and it shall be given unto you; good measure, pressed down and shaken together, and running over, shall men give into your bosom. For with the same measure that ye mete withal it shall be measured to you again" (K.J.V.).

(8) The CHURCH interprets these Scriptures to declare that those who contribute to the work of the CHURCH will be blessed spiritually and materially by God in return. Again, the CHURCH, as part of the Body of Christ, has a duty to share its good fortune with its members and contributors.

(9) All contributions to the CHURCH go into its general revenue and are utilized and disbursed as decreed by the Directors, after seeking the will of God.

(10) Contributions are sought in the "Double Your Blessing" program from those who accept the control of Jesus Christ over their lives and possessions. Thus, all gifts to the CHURCH are faith gifts. That is, the Giver believes in the power of God to direct His servants to wise investment choices.

(11) The Ministers and Directors of the CHURCH stress to every gift-maker that the success of this "Double Your Blessing" program depends upon the continuing commitment of the

CHURCH and the Giver to the will of God. This is a joint effort of a faith partnership. A copy of the initial commitment document presented to potential donors is attached hereto as Exhibit 4.

(12) The CHURCH does not seek donors who view "Double Your Blessing" only as a materialist, business venture. Neither the CHURCH nor any of its programs can succeed from such a selfish basis.

(13) The CHURCH believes that the Bible teaches that God can materially bless those who love the Lord. Many leaders in the Bible were wealth. Money is not the root of all evil -- it is the *love* of money.

(14) God promises to reward those who trust Him. During the many, many months of offering [the] "Double Your Blessing" program, every Giver has received in return more than his/her original gift amount. No one has failed to benefit spiritually and materially by participating in this program.

(15) Since the commencement of this program, the CHURCH has not received one complaint from any donor as to any dissatisfaction with "Double Your Blessing."

(16) The practice of the CHURCH is not to except gift donations from atheist or agnostics. At the initial meeting with each potential donor the CHURCH stresses that the program depends upon the continuing religious commitment of the Giver and his continuing prayers for the success of the program. If any potential donor will not accept these conditions, the CHURCH will not accept the proposed gift.

Further Affiant sayeth not.

/s/
GERALD D. PAYNE

Sworn to and subscribed before
me this 16 day of June, 1995.

/s/
LINDA F. MURRHEE
Notary Public, State of Florida

THE "DOUBLE YOUR BLESSING" PROGRAM

_____

Office use only

I, (print name) _____, do hereby accept the teachings of Jesus Christ in Luke 6:38*, "Give and it shall be given unto you; good measure, pressed down and shaken together, and running over, shall men give into your bosom. For with the same measure that ye mete withal it shall be measured to you again."

I do hereby give and contribute to Greater Trust, a faith program of Greater Ministries International, Inc., the sum of money designated below.

The sum is given in the belief that God will prosper his Church, and that this act of faith will be rewarded in the manner and spirit given.

Believing also that in the church "all things should be done decently and in order," I submit the following information.

Gift amount if for: $_____ (paid by ☐ U.S. Currency CASH, ☐ Cashier's Check, ☐ Money Order)

Please Complete:

Name:_____

Address:_____

City:_____ State _____ Zip _____

Signature of Gift Giver _____ Date __/__/__

Signature of: Witness #1 _____

Witness #2 _____

This "GIFT" is to back up: Self □ or given as back-up to:_____
(name of an existing Certificate Holder Only)

Comments:_____
_____

"This is a Church trust through Greater Ministries International, Inc." revised 3/95

This line is to be completed by Greater Trust Staff: Received $_____ by Greater Trust on __/__/__

(PLEASE COMPLETE NAME AND GIFT AMOUNT BELOW)

GREATER TRUST GIFT RECEIPT for _____

In the Amount of _____ ($_____)

Date Received: ___/___/___ 6 Month Scheduled Maturity Amount (credit)

Gift Out: Scheduled after maturity in 10 Equal Parts

Gift in: Receipt: _____

□	$ 250	500	$ 50/mo.
□	$ 500	1,000	$ 100/mo.
□	$ 1,000	2,000	$ 200/mo.
□	$ 2,000	4,000	$ 400/mo.
□	$ 3,000	6,000	$ 600/mo.
□	$ 4,000	8,000	$ 800/mo.
□	$ 5,000	10,000	$ 1,000/mo.

CONSTITUTIONAL AND STATUTORY PROVISIONS

Constitution of the United States, First Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Religious Freedom Restoration Act (42 U.S.C. §§ 2000bb to 2000bb-4):

§ 2000bb. Congressional findings and declaration of purposes

(a) Findings

The Congress finds that --

(1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;

(2) laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;

(3) governments should not substantially burden religious exercise without compelling justification;

(4) in Employment Division v. Smith, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and,

(5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) Purposes

The purposes of this chapter are --

(1) to restore the compelling interest test as set forth in

Sherbert v. Verner, 374 U.S. 398 (1963) and Wisconsin v. Yoder, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and

(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

§ 2000bb-1. Free exercise of religion protected

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b) of this section.

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person --

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

§ 2000bb-2. Definitions

As used in this chapter --

(1) the term "government" includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a State, or a subdivision of a State;

(2) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term "demonstrates" means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term "exercise of religion" means the exercise of religion under the First Amendment to the Constitution.

§ 2000bb-3. Applicability

(a) In general

This chapter applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after November 16, 1993.

(b) Rule of construction

Federal statutory law adopted after November 16, 1993 is subject to this chapter unless such law explicitly excludes such application by reference to this chapter.

(c) Religious belief unaffected

Nothing in this chapter shall be construed to authorize any government to burden any religious belief.

§ 2000bb-4. Establishment clause unaffected

Nothing in this chapter shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion (referred to in this section as the "Establishment Clause"). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this chapter. As used in this section, the term "granting", used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.